THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17973 OF 2006

DATED 30th AUGUST, 2006

BETWEEN

Kuruba Sanjeevappa

… Petitioner

and

The Govt. of Andhra Pradesh rep.by its Secretary, Special Chief Secretary, Revenue (Asn-7) Department, Secretariat Buildings, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17973 OF 2006

ORDER:

The petitioner claims to be landless poor person for assignment of agricultural land. He alleges that his father Chinamallappa was cultivating land admeasuring Acs.5.40 in survey No.205 situated at Yatakal village, Settur Mandal in Anantapur District (hereafter called, petition property) for about fourty (40) years. After demise of the father, the petitioner was cultivating the land as Sivaijamadar and in revenue records also the name was registered as enjoyer/occupier. However, the then Tahsildar, Kalyanadurg assigned land on 24.05.1979 to the fifth respondent. The petitioner filed an Appeal before the Joint Collector. By order, dated 06.08.1992, the Joint Collector confirmed the assignment. Therefore, the petitioner approached the Chief Commissioner of Land Administration, who also dismissed the Revision filed by the petitioner. Hence, the petitioner approached the Government of Andhra Pradesh, the first respondent herein, alleging that the fifth respondent is not landless and poor, that he is not resident of the village and that assignment in favour of fifth respondent ignoring the longstanding possession of the petitioner is bad and illegal. The Government accepted this plea but denied the assignment to the petitioner on the ground that the petitioner is not landless and poor person as he is the owner of land admeasuring Acs.7.88 cents and therefore, he is not eligible for assignment. The Government also found that the fourth respondent is owning only Acs.2.60 cents and therefore, she is eligible for assignment of another extent of Acs.2.40 cents. Accordingly by G.O.Rt.No.817, dated 22.04.2006, the Government disposed of the revision observing as under.

1. The original assignee, Sri B.Malla Reddy, S/o Bheem Reddy is not residing in Mangampalli Village and he appears to have alienated the land in favour of Sri K.Ramanjaneyulu, whose wife is presently cultivating the land for the last four years. Thus, Sri Malla Reddy has violated the

conditions of assignment and it deserves to be cancelled.

2. Sri Sanjeevappa (Revision Petition) is having Acs.7.88 cents in his name and he is not eligible for assignment of Government land.

3. Smt. Gowramma, W/o Ramanjaneyulu, who is presently cultivating the subject land of Acs.5.40 cents is already having agricultural land of Acs.2.60 cts., received from her Father-in-Law as ancestral property. She will be eligible only for the balance of Acs.2.40 cts., for assignment of Government land as the maximum limit of dry land is Acs.5.00.

The Government also directed the District Collector, Anantapur, to resume the land and re-assign the balance eligible land to the fourth respondent. The order of the Government in G.O.Rt.No.817, dated 22.04.2006, is challenged in this writ petition.

Learned counsel strenuously contends that there was no material before the Government to come to the conclusion that the petitioner is ineligible for assignment of Government land or the petitioner is not a landless poor person. He submits that the Government placed utmost reliance on the report of the Mandal Revenue Officer, Settur (MRO), who never conducted any enquiry and therefore, the impugned order suffers from non-application of mind.

There cannot be any doubt or denial that whether a person is landless or poor, whether a person is eligible for assignment of Government land or not, and whether a person has to be assigned the land for any other reason, are all questions of facts. The power under relevant Board Standing Orders to assign the Government land and to cancel such assignment and resume the land are conferred on a hierarchy of revenue authorities starting from the Mandal Revenue Officer to the Chief Commissioner of Land Revenue. In this case, there is no dispute that Tahsildar initially granted assignment in favour of fifth respondent, which was subject matter of Appeal before the Joint Collector and Revision before the Chief Commissioner of Land Revenue, where the petitioner failed. When the petitioner approached the Government, they called for the report of the MRO, which was submitted through the District Collector. The MRO reported that fifth respondent is not residing in Mangampalli village and that he is residing in Rati Bavi village of Rayadurg Mandal. It was also reported to the Government that he was actually in possession of the land admeasuring Acs.5.40 in survey No.205/2 and that he would also be entitled to get a share of Acs.2.60 cents from his father in law. It was also reported that the petitioner herein is the owner of Acs.7.78 cents.

When the MRO submitted a report assuming that he did not conduct any enquiry, the same cannot be faulted. Presumably, the MRO sent report based on the revenue records and MRO being custodian of revenue records as well as record of rights, there is a presumption of correctness attached to the report of the MRO, as such reports are always based on the record of rights and revenue records. Though the presumption attached to the report based on the public record/revenue record is rebuttable, the petitioner has not placed any evidence much less unimpeachable evidence to take a different view that the petitioner is eligible for assignment. First respondent has exercised its power of Revision under relevant BSO based on the record and decided the questions of fact and the impugned order does not warrant any interference.

The writ petition is accordingly dismissed. No costs.

_____

(V.V.S.RAO,J)

30.08.2006.
pln